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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,318	09/08/2003	Allen L. Martin	525-006	5280
26948	7590	07/21/2005	EXAMINER	
ELLIS & VENABLE, PC 101 NORTH FIRST AVE. SUITE 1875 PHOENIX, AZ 85003			TRIEU, THAI BA	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tate

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/657,318		MARTIN, ALLEN L.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Thai-Ba Trieu		3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 29 and 30 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☒ Claim(s) 29 and 30 is/are allowed.  
 6) ☒ Claim(s) 1-6 is/are rejected.  
 7) ☒ Claim(s) 7 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/31/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This Office Action is in response to the Amendment filed on May 06, 2005. Applicant's cooperation in correcting the informalities in the specification is appreciated. Applicant's cooperation in amending the claims to overcome the claim objections relating to informalities as well as indefinite claim language is also appreciated.

Claims 1 and 29 were amended, and claims 8-28 were cancelled.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

***Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato et al. (Patent Number 5,112,281), in view of Heimark (Patent Number 6,082,340).***

Minato discloses an external drive assembly, having secondary overdrive components, for use with an impeller of a supercharger comprising:

a multibelt pulley (20,21,22) adapted to receive a drive source (Read as the cam shaft 2 being constructed as to be rotated in association with a crank shaft (not shown)..., See Column 4, lines 24-31);

an impeller pulley (3) drivingly coupled to the impeller;

an external drive belt (5 and 6) having at least one rib coupled to the multibelt pulley to drive the impeller pulley;

an adjustable idler (30) engagingly connected to the external drive belt;

wherein the impeller pulley (3) and the multibelt pulley (20,21,22) engage with the at least one rib of the external drive belt (5 and 6) (See Figures 1-4).

Minato discloses the invention as recited above; however, fails to disclose a drive source using a motor belt and an internal drive assembly for coupling the impeller pulley to the impeller.

Heimark teaches that it is conventional in the supercharger art, to utilize a drive source using a motor belt (34) and an internal drive assembly (40,42,44,48,50,52) for coupling the impeller pulley to the impeller (See Figures 2-3).

It would have been obvious to one having ordinary skill in the art at that time the invention was made, to have utilized a drive source using a motor belt and an internal drive assembly for coupling the impeller pulley to the impeller, as taught by Heimark, to improve the performance efficiency of the Minato drive system.

***Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Minato et al. (Patent Number 5,112,281), in view of Heimark (Patent Number 6,082,340), and further in view of Kumm (Patent Number 5,176,581).***

The modified Minato discloses the invention as recited above; however, fails to disclose the adjustable idler being spring loaded.

Kumm teaches that it is conventional in the belt tensioner art, to utilize a spring loaded idler pulley (10) (See Column 2, lines 35-65).

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It would have been obvious to one having ordinary skill in the art at that time the invention was made, to have utilized the adjustably spring loaded idler, as taught by Kumm, to provide a constant loading of the belt, in the modified Minato device.

***Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minato et al. (Patent Number 5,112,281), in view of Heimark (Patent Number 6,082,340) and Kumm (Patent Number 5,176,581), and further in view of Fisher (Patent Number 4,028,955).***

The modified Minato device discloses the invention as recited above; and further discloses the multibelt pulley engaging at least the external drive belt and a motor belt (5 and 6) (See Manito Figure 2), and adapted to receive a rotatable shaft (2) of an existing engine component (1) (See Figure 2); however, fails to disclose the external drive belt being selected from the group consisting of: serpentine belts, polydrive belts or toothed belts.

Fisher teaches that it is conventional in the belt art, to utilize the serpentine belts, polydrive belts or toothed belts (See Column 5, lines 36-67, and Column 6, lines 1-7).

It would have been obvious to one having ordinary skill in the art at that time the invention was made, to have utilized the serpentine belts, polydrive belts or toothed belts, as taught by Fisher, to provide a positive guide for the belt in the modified Minato device.

***Allowable Subject Matter***

Claims 29-30 are allowed.

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1-7 and 29-30 have been considered but are moot in view of the new ground(s) of rejection.

1. The Applicant's arguments set forth on Page 8 is persuasive for the amended claim 29; accordingly, the obviousness type double patenting rejection of claim 29 has been withdrawn.

2. With regard to the Applicant's argument set forth on Pages 8-9, applicant states that the reference to Minato et al. (Patent Number 5,112,281) does not disclose a supercharger having the external drive mechanism having secondary overdrive components comprising a multi-belt pulley adapted to receive a drive source using a motor belt.

The examiner respectfully disagrees with the applicant since:

1. First of all, the recitation of ***“an external drive assembly, having secondary overdrive components”*** has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not

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accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

2. Secondly, the limitation ***“for use with an impeller of a supercharger”*** is an intended use recitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCCPA 1963).

3. In response to the applicant's arguments, the limitation of ***“a drive source using motor belt”*** is clearly disclosed by Heimark (Patent Number 6,082,340) (See the rejection being set forth above).

3. The rejections of claims 2-6 set forth above to respond to the Applicant's arguments stated on Pages 10-11 in the remarks of the Amendment filed on May 06, 2005.

***Conclusion***

The IDS (PTO-1449) filed on May 31, 2005 has been considered. An initialized copy is attached hereto.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Cartensen (US Patent Number 5,971,721) discloses a high-pressure pump having a drive motor driving an eccentric transmission.

- La Boda (US Patent Number 5,152,027) discloses an industrial sweeper having a first pulley driving by a motor, a second pulley on a drive shaft for driving the drive wheel, a third pulley for driving the main brush, and a drive belt interconnecting the first and second pulleys which can be selective by a clutch for driving the drive wheel.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai-Ba Trieu whose telephone number is (571) 272-4867. The examiner can normally be reached on Monday - Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Additionally, the new Central FAX Number **(571) 273-8300** is effective on **July 15, 2005**. The old number (703-872-9306) will be routed to the new number until September 15, 2005.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTB  
July 19, 2005

  
Thai-Ba Trieu  
Primary Examiner  
Art Unit 3748